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8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 **In the Matter of the Accusation Against:**

Case No. 800-2015-013733

12 **Eyal Shtorch, M.D.**

OAH No.: 2018110151

13  
14 **Physician's and Surgeon's Certificate**  
15 **No. A 64854 ,**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 **Respondent.**

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19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical  
23 Board of California. She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran,  
25 Deputy Attorney General.

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8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2015-013733, and that he has thereby subjected her Physician's and Surgeon's Certificate No. A 64854 to disciplinary action.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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1 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format  
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
5 the Board may, without further notice or formal proceeding, issue and enter the following  
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 64854 issued  
9 to Eyal Shtorch, M.D. (Respondent) is revoked. However, the revocation is stayed and  
10 Respondent is placed on probation for three (3) years on the following terms and conditions.

11 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Until Respondent  
12 successfully completes the Prescribing Practices Course (Condition # 4, below) and Medical  
13 Record Keeping Course (Condition # 5, below), Respondent shall not order, prescribe, dispense,  
14 administer, furnish, or possess any controlled substances as listed in Schedule(s) II and III of the  
15 California Uniform Controlled Substances Act, except in a hospital setting as follows:  
16 Respondent will be permitted to approve short term continuance of Schedule II and III  
17 medications deemed necessary by the discharging physician as reflected in transfer orders from  
18 the physician to post-acute hospitals until the patient has been assessed by a physician.

19 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
20 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
21 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If  
22 Respondent forms the medical opinion, after an appropriate prior examination and medical  
23 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent  
24 shall so inform the patient and shall refer the patient to another physician who, following an  
25 appropriate prior examination and medical indication, may independently issue a medically  
26 appropriate recommendation or approval for the possession or cultivation of marijuana for the  
27 personal medical purposes of the patient within the meaning of Health and Safety Code section  
28 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that

1 Respondent is prohibited from issuing a recommendation or approval for the possession or  
2 cultivation of marijuana for the personal medical purposes of the patient and that the patient or  
3 the patient's primary caregiver may not rely on Respondent's statements to legally possess or  
4 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully  
5 document in the patient's chart that the patient or the patient's primary caregiver was so  
6 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
7 patient's primary caregiver information about the possible medical benefits resulting from the use  
8 of marijuana.

9       2.    CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
10 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
11 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
12 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
13 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
14 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
15 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
16 and 4) the indications and diagnosis for which the controlled substances were furnished.

17       Respondent shall keep these records in a separate file or ledger, in chronological order. All  
18 records and any inventories of controlled substances shall be available for immediate inspection  
19 and copying on the premises by the Board or its designee at all times during business hours and  
20 shall be retained for the entire term of probation.

21       3.    EDUCATION COURSE. Within 60 calendar days of the effective date of this  
22 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
23 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
24 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
25 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
26 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
27 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
28 completion of each course, the Board or its designee may administer an examination to test

1 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
2 hours of CME of which 40 hours were in satisfaction of this condition.

3 4. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective  
4 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
5 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
6 University of California, San Diego School of Medicine (Program), approved in advance by the  
7 Board or its designee. Respondent shall provide the program with any information and  
8 documents that the Program may deem pertinent. Respondent shall participate in and  
9 successfully complete the classroom component of the course not later than six (6) months after  
10 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
11 the course within one (1) year of enrollment. The prescribing practices course shall be at  
12 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
13 requirements for renewal of licensure.

14 A prescribing practices course taken after the acts that gave rise to the charges in the  
15 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
16 or its designee, be accepted towards the fulfillment of this condition if the course would have  
17 been approved by the Board or its designee had the course been taken after the effective date of  
18 this Decision.

19 Respondent shall submit a certification of successful completion to the Board or its  
20 designee not later than 15 calendar days after successfully completing the course, or not later than  
21 15 calendar days after the effective date of the Decision, whichever is later.

22 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
23 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
24 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
25 Program, University of California, San Diego School of Medicine (Program), approved in  
26 advance by the Board or its designee. Respondent shall provide the program with any  
27 information and documents that the Program may deem pertinent. Respondent shall participate in  
28 and successfully complete the classroom component of the course not later than six (6) months

1 after Respondent's initial enrollment. Respondent shall successfully complete any other  
2 component of the course within one (1) year of enrollment. The medical record keeping course  
3 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education  
4 (CME) requirements for renewal of licensure.

5 A medical record keeping course taken after the acts that gave rise to the charges in the  
6 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
7 or its designee, be accepted towards the fulfillment of this condition if the course would have  
8 been approved by the Board or its designee had the course been taken after the effective date of  
9 this Decision.

10 Respondent shall submit a certification of successful completion to the Board or its  
11 designee not later than 15 calendar days after successfully completing the course, or not later than  
12 15 calendar days after the effective date of the Decision, whichever is later.

13 6. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
14 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
15 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
16 licenses are valid and in good standing, and who are preferably American Board of Medical  
17 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
18 relationship with Respondent, or other relationship that could reasonably be expected to  
19 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
20 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
21 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

22 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
23 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
24 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
25 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
26 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
27 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
28 signed statement for approval by the Board or its designee.



1        Within 60 calendar days of the effective date of this Decision, and continuing throughout  
2 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
3 make all records available for immediate inspection and copying on the premises by the monitor  
4 at all times during business hours and shall retain the records for the entire term of probation.

5        If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
6 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
7 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
8 shall cease the practice of medicine until a monitor is approved to provide monitoring  
9 responsibility.

10       The monitor(s) shall submit a quarterly written report to the Board or its designee which  
11 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
12 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
13 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
14 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
15 preceding quarter.

16       If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
17 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
18 name and qualifications of a replacement monitor who will be assuming that responsibility within  
19 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
20 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
21 notification from the Board or its designee to cease the practice of medicine within three (3)  
22 calendar days after being so notified Respondent shall cease the practice of medicine until a  
23 replacement monitor is approved and assumes monitoring responsibility.

24       In lieu of a monitor, Respondent may participate in a professional enhancement program  
25 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
26 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
27 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
28 and education. Respondent shall participate in the professional enhancement program at

Respondent's expense during the term of probation.

## STANDARD CONDITIONS

7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

## 10. GENERAL PROBATION REQUIREMENTS.

### Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

### Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business

1 and Professions Code section 2021(b).

2 Place of Practice

3 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
4 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
5 facility.

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's  
8 license.

9 Travel or Residence Outside California

10 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
11 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
12 (30) calendar days.

13 In the event Respondent should leave the State of California to reside or to practice  
14 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
15 departure and return.

16 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
17 available in person upon request for interviews either at Respondent's place of business or at the  
18 probation unit office, with or without prior notice throughout the term of probation.

19 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
20 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
21 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
22 defined as any period of time Respondent is not practicing medicine in California as defined in  
23 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
24 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
25 time spent in an intensive training program which has been approved by the Board or its designee  
26 shall not be considered non-practice. Practicing medicine in another state of the United States or  
27 Federal jurisdiction while on probation with the medical licensing authority of that state or  
28 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall

1 not be considered as a period of non-practice.

2 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
3 months, Respondent shall successfully complete a clinical training program that meets the criteria  
4 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
5 Disciplinary Guidelines" prior to resuming the practice of medicine.

6 Respondent's period of non-practice while on probation shall not exceed two (2) years.

7 Periods of non-practice will not apply to the reduction of the probationary term.

8 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
9 probationary terms and conditions with the exception of this condition and the following terms  
10 and conditions of probation: Obey All Laws; and General Probation Requirements.

11 13. COMPLETION OF PROBATION. Respondent shall comply with all financial  
12 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
13 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
14 be fully restored.

15 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
16 of probation is a violation of probation. If Respondent violates probation in any respect, the  
17 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
18 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
19 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
20 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
21 be extended until the matter is final.

22 15. LICENSE SURRENDER. Following the effective date of this Decision, if  
23 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
24 the terms and conditions of probation, Respondent may request to surrender his or her license.  
25 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
26 determining whether or not to grant the request, or to take any other action deemed appropriate  
27 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
28 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its

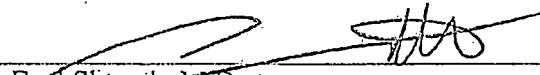
1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
3 application shall be treated as a petition for reinstatement of a revoked certificate.

4 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
5 with probation monitoring each and every year of probation, as designated by the Board, which  
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
7 California and delivered to the Board or its designee no later than January 31 of each calendar  
8 year.

9  
10 ACCEPTANCE

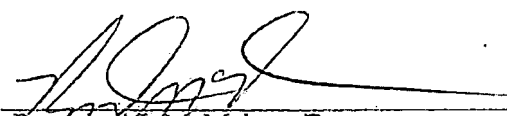
11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
12 discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the  
13 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated  
14 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
15 bound by the Decision and Order of the Medical Board of California.

16  
17 DATED: 5/6/19

  
18 Eyal Shtorch, M.D.  
Respondent

19  
20  
21 I have read and fully discussed with Respondent the terms and conditions and other matters  
22 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and  
23 content.

24 DATED: May 6, 2019

  
25 Raymond J. McMahon, Esq.  
26 Attorney for Respondent

ENDORSEMENT

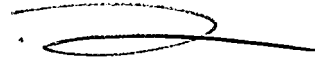
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

5/7/19

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General



TAN N. TRAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2015-013733**

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 TAN N. TRAN  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Jan. 31 20 18  
BY Eva Fasion ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-013733

12 **Eyal Shtorch, M.D.**  
13 **16133 Ventura Blvd., Suite 360**  
**Encino, CA 91436**

**A C C U S A T I O N**

14 **Physician's and Surgeon's Certificate**  
15 **No. A 64854,**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about April 10, 1998, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 64854 to Eyal Shtorch, M.D. (Respondent). The Physician's and Surgeon's  
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on October 31, 2019, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1       "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       "(b) Gross negligence.

4       "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       "(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9       "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       "(d) Incompetence.

15       "(e) The commission of any act involving dishonesty or corruption that is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       "(f) Any action or conduct which would have warranted the denial of a certificate.

18       "(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of  
21 the proposed registration program described in Section 2052.5.

22       "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
24 who is the subject of an investigation by the board."

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7. Section 2241 of the Code states:

"(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

"(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

"(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

"(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

"(2) Treatment of addicts in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

"(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

"(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose actions are characterized by craving in combination with one or more of the following:

"(A) Impaired control over drug use.

"(B) Compulsive use.

"(C) Continued use despite harm.

"(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5."

8. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

"(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

"(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

"(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

"(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

"(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

9. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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1 surgeries, including a replacement, neuropathy, and various other ailments. Per the records,  
2 Patient 1 had been treated by a pain specialist, but Respondent had apparently taken over the pain  
3 management of this patient. Significantly, Patient 1 had a history of heroin abuse in the past, and  
4 was treated with Subutex.<sup>3</sup> Respondent continued to prescribe Subutex and later added  
5 Oxycodone,<sup>4</sup> as well as other controlled substances.

6 13. Respondent exhibited a lack of knowledge in failing to understand the difference  
7 between Subutex and Oxycodone and the indications for prescribing one over the other.  
8 Respondent also demonstrated a continued lack of knowledge in the proper interpretation of urine  
9 drug screens and the diversionary implications for an inconsistent result.

10 14. Taken all together, the management of Patient 1's chronic pain condition with opiate  
11 medications, as outlined above, represents a lack of knowledge by the Respondent and constitutes  
12 an extreme departure from the standard of care.

13 Patient 2

14 15. Patient 2 is a 75-year-old female with various maladies, including morbid obesity,  
15 cellulitis, diabetes mellitus, hypertension, diastolic heart failure, confusion, hyperlipidemia,  
16 chronic kidney disease, sleep apnea, anemia, coronary artery disease, non-compliance with  
17 medication, and fatty liver. Apparently, Respondent was managing Patient 2's chronic pain  
18 because the patient had refused to see a pain specialist. This patient is frequently admitted to the  
19 hospital for various reasons, and sees multiple other physicians.

20 16. At one point, Respondent used Methadone and Fentanyl (Schedule II) separately to  
21 Patient 2's drug regimen in an attempt to discontinue Norco (also Schedule III).<sup>5</sup> Moreover,

22 <sup>3</sup> Subutex or Buprenorphine is a Schedule III narcotic with lower potential for  
23 abuse/dependence than Oxycodone, a Schedule II narcotic. Subutex is commonly used to wean  
24 patients off Oxycodone dependency. By adding Oxycodone in this case, Respondent is  
essentially escalating the patient's potential for narcotic dependency/addiction.

25 <sup>4</sup> At one point, the patient was receiving prescriptions for large quantities of Oxycodone,  
26 despite urine toxicology screens that were negative for Oxycodone metabolites. Respondent also  
27 never documented in his notes that the patient was a heroin abuser in the past, and therefore he  
was at high risk for abuse. Apparently, Respondent was trying to switch the patient from Subutex  
to Oxycodone, but there was no clear discussion as to the indications for the switch to  
Oxycodone. The patient, however, was eventually tapered and discontinued from all controlled  
substance use by Respondent.

28 <sup>5</sup> It should be noted that Fentanyl is another Schedule II drug with equal potential for

(continued...)

1 although the patient has evidence of diastolic heart failure, she is routinely maintained on long-  
2 acting nitrates under the supervision of a cardiologist. There is also no evidence of a sleep study  
3 found in the medical records, nor is there evidence of a venous Doppler of Patient 2's lower  
4 extremities, although the patient references various maladies which require such studies,  
5 including hypoventilation syndrome, and chronic bilateral leg edema.

6 17. Also, on one particular visit (October 26, 2016), Respondent also documents that the  
7 patient complains of "pain" and is taking Norco "with no relief." However, Patient 2's urine  
8 samples are often negative for the presence of Oxycodone metabolites, and her drug screen  
9 collected on the same visit is completely negative for any type of scheduled medication such as  
10 Norco or benzodiazepines. Notwithstanding this, records show that Patient 2 filled prescriptions  
11 for Clonazepam and Hydrocodone between August and November 2016. There is no  
12 documentation that the Respondent checked the urine drug screen or appreciated its significance.  
13 There is also no documentation that the patient was asked to explain her urine results or that there  
14 was a pill count performed.

15 18. Taken altogether, Respondent's treatment of Patient 2, as outlined above, represents  
16 an extreme departure from the standard of care.

## 17 SECOND CAUSE FOR DISCIPLINE

18 (Repeated Negligent Acts - 4 Patients)

19 19. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
20 the Code in that he committed repeated negligent acts in his care of Patient 1 and Patient 2 above,  
21 as well as Patient 3 and Patient 4. The circumstances are as follows:

22 20. The facts and circumstances in paragraphs 11 through 18, above, are incorporated by  
23 reference as if set forth in full herein.

24 21. Respondent also committed repeated negligent acts in his care of Patient 1 above.  
25 The circumstances are as follows:

26 (...continued)

27 addiction and abuse as Norco/Oxycodone. It would have been more reasonable to prescribe  
28 Buprenorphine or Tramadol, Schedule III and IV drugs respectively, in an attempt to discontinue  
the Norco.

Patient 1

22. Respondent departed from the standard of care in regard to documenting Patient 1's pain, including physical and psychological status and function, substance abuse history and history of prior pain treatments.

23. There was no documentation that Respondent discussed the risks and benefits of the use of controlled substances along with other treatment modalities. Moreover, the patient's medical records are lacking in important clinical information regarding chief complaint and history of the present illness. Computerized notes are recycled "cut and paste" documents that often add little insight into the patient's clinical status.

24. Respondent also committed repeated negligent acts in his care of Patient 2 above. The circumstances are as follows:

Patient 2

25. The facts and circumstances in paragraphs 15 through 18, above, are incorporated by reference as if set forth in full herein.

26. The Respondent's medical record for Patient 2 contain minimal clinically relevant information in the "Chief Complaint" and "History of the Present Illness" sections, due to a "cut and paste" format that tends to repeat previous complaints and information. Moreover, important details regarding the patient's co-morbid conditions are often missing.

Patient 3

27. Patient 3 is a fifty-six year-old female who treated with Respondent from about June 2013 through March 2017.<sup>6</sup> The patient had diagnoses of fibromyalgia, hypertension, degenerative joint disease of the cervical spine, migraine syndrome, anxiety, depression, history of multiple ankle surgeries, and trauma due to a motor vehicle accident. Records indicate that Respondent prescribed Oxycodone, Lorazepam, Modafinil, and Restoril to this patient.

28. Respondent's hand-written medical records contain scant pertinent clinical information about Patient 3's various chief complaints. The notes are often illegible, extremely

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<sup>6</sup> Again, these are merely approximate dates based upon the records available for review.



5  
1 cursory and require personal clarification. Computerized notes are often in "cut and paste"  
2 format in which identical information is carried over. Pertinent information such as Patient 3's  
3 alcohol use are inadequately detailed/documented, especially in conjunction with high doses of  
4 narcotics which are prescribed. Moreover, a CURES report was not seen in the records.

5 29. Taken all together, respondent's management of Patient 3's chronic pain syndrome  
6 with opiate medications represent a simple departure from the standard of care.

7 Patient 4

8 30. Patient 4 is a fifty-nine year-old female with hypertension, degenerative joint disease,  
9 epilepsy, anxiety, fibromyalgia, and chronic pain due to a fall, which resulted in spinal fusion,  
10 and left total knee replacement. The patient was taking heavy doses of Oxycodone, Diazepam,  
11 and Provigil, which was written by another physician when the Respondent first met the patient  
12 on or about August 2012. After this date, Respondent continued to care for Patient 4 and refill  
13 her narcotics, valium, and Provigil.

14 31. Respondent's records for Patient 4 used a combination of hand-written and  
15 computerized notes, and were often devoid of important clinical information (e.g. type of  
16 medications Respondent was refilling for the patient, patient's chief complaints, depression, etc.).  
17 Also, a CURES report was not seen in the medical records for this patient. Moreover, the HPI  
18 component of the computerized notes consisted of a list of medical problems that were carried  
19 over in a "cut and paste" manner for prolonged periods of time instead of documenting new and  
20 spontaneous complaints or conversations with the patient. Medications were deleted without  
21 mentioning the reasoning therefor. Notes were missing documentation of logical follow-up  
22 questions related to surgeries or conditions present in previous notes such as depression, knee  
23 pain or pain levels.

24 32. Taken all together, the management of Patient 4's chronic pain conditions with opiate  
25 medication represents a simple departure from the standard of care.

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1                                    THIRD CAUSE FOR DISCIPLINE

2                                    (Prescribing Without Exam/Indication)

3            33. By reason of the facts and allegations set forth in the First and Second Causes for  
4 Discipline above, Respondent is subject to disciplinary action under section 2242 of the Code, in  
5 that Respondent prescribed dangerous drugs to Patient 1, Patient 2, Patient 3, and Patient 4  
6 without an appropriate prior examination or medical indication therefor.

7                                    FOURTH CAUSE FOR DISCIPLINE

8                                    (Excessive Prescribing)

9            34. By reason of the facts and allegations set forth in the First and Second Causes for  
10 Discipline above, Respondent is subject to disciplinary action under section 725 of the Code, in  
11 that Respondent excessively prescribed dangerous drugs to Patient 1, Patient 2, Patient 3, and  
12 Patient 4.

13                                   FIFTH CAUSE FOR DISCIPLINE

14                                   (Inadequate Records)

15           35. By reason of the facts and allegations set forth in the First and Second Causes for  
16 Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in  
17 that Respondent failed to maintain adequate and accurate records of his care and treatment of  
18 Patient 1, Patient 2, Patient 3, and Patient 4.

19                                   SIXTH CAUSE FOR DISCIPLINE

20                                   (Incompetence- 2 patients)

21           36. By reason of the facts and allegations set forth in the First and Second Causes for  
22 Discipline above, namely paragraphs 11-26 above, Respondent is subject to disciplinary action  
23 under 2234, subdivision (d), of the Code, in that he exhibited a lack of knowledge in his treatment  
24 of Patient 1 and Patient 2, above.

25           37. The facts and circumstances in paragraphs 11 through 26, above, are incorporated by  
26 reference as if set forth in full herein.

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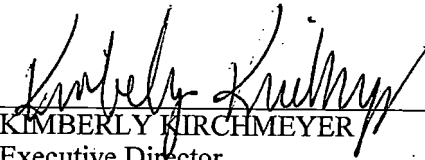
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 64854, issued to Eyal Shtorch, M.D.;
2. Revoking, suspending or denying approval of Eyal Shtorch, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Eyal Shtorch, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: January 31, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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